

1 class action, instead, Plaintiffs intend to use the opt in procedure set forth in 29  
2 U.S.C. § 216(b).

3 38. Plaintiffs are entitled to an award of back pay, including prejudgment  
4 interest, or liquidated or double damages for the past three years of work.

5 39. An actual controversy now exists between Plaintiffs and Defendants  
6 as to whether Defendants violated Plaintiffs' rights in failing to pay wages as  
7 required by the FLSA. Unless the Court issues a declaration of rights, there will  
8 continue to be a controversy as to whether Defendants' businesses are required to  
9 pay dancers a minimum wage for working at the clubs. In addition, numerous  
10 future claims of a similar nature are likely to arise and require judicial resolution.  
11 By issuing a declaration of rights at this time, the Court will conserve judicial  
12 resources and provide guidance to the parties, and others who are similarly  
13 situated as to the legality of Defendants' actions in failing to pay minimum wage  
14 to exotic dancers who work at their clubs.

15 40. Plaintiffs are further entitled to injunctive relief against Defendants  
16 to restrain them from continuing to fail to pay minimum wage to exotic dancers  
17 working at their clubs.

18 **SECOND CAUSE OF ACTION**

19 **(California Labor Code §§ 1194, 98.3)**

20 **(Against Defendants Spearmint Rhino; Deja**

21 **Vu Showgirls; Rio; Rouge; Silver Rein; Scores; and the Wild Goose.)**

22 41. The allegations set forth above in Paragraphs 32 through 40,  
23 inclusive, are incorporated into this cause of action by reference as if set forth in  
24 full.

25 42. By doing the things alleged herein, Defendants violated the California  
26 Labor Code by failing to pay a minimum wage to the exotic dancers who worked  
27

1 in their clubs.

2 43. Plaintiffs are entitled to an award of back pay, including prejudgment  
3 interest, for the past two years of work.

4 44. An actual controversy now exists between Plaintiffs and Defendants  
5 as to whether Defendants violated Plaintiffs' rights in failing to pay wages as  
6 required by the Labor Code. Unless the Court issues a declaration of rights, there  
7 will continue to be a controversy as to whether Defendants' businesses are  
8 required to pay dancers a minimum wage for working at the clubs. In addition,  
9 numerous future claims of a similar nature are likely to arise and require judicial  
10 resolution. By issuing a declaration of rights at this time, the Court will conserve  
11 judicial resources and provide guidance to the parties, and others who are similarly  
12 situated as to the legality of Defendants' actions in failing to pay minimum wage  
13 to exotic dancers who work at their clubs.

14 45. Plaintiffs are further entitled to injunctive relief against Defendants  
15 to restrain them from continuing to fail to pay minimum wage to exotic dancers  
16 working at their clubs as provided in Labor Code §§ 98.1(b), 1194, and 1194.5.

17 **THIRD CAUSE OF ACTION**

18 **(California Labor Code § 351)**

19 **(Against Defendants Spearmint Rhino; Deja**

20 **Vu Showgirls; Rio; Rouge; Silver Rein; Scores; and the Wild Goose.)**

21 46. The allegations set forth above in Paragraphs 42 through 45,  
22 inclusive, are incorporated into this cause of action by reference as if set forth in  
23 full.

24 47. Labor Code section 351 provides in relevant part that "No employer  
25 or agent shall collect, take, or receive any gratuity or a part thereof that is paid,  
26 given to, or left for an employee by a patron, or deduct any amount from wages  
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1 due to an employee on account of a gratuity, or require an employee to credit the  
2 amount, or any part thereof, of a gratuity against and as a part of the wages due the  
3 employee from the employer. Every gratuity is hereby declared to be the sole  
4 property of the employee or employees to whom it was paid, given or left for.”

5 48. By requiring Plaintiffs to pay their tips to other club employees of the  
6 clubs, and by requiring that employees kick back a portion of their tips and/or fees  
7 for lap dances and table dances to Defendants, Defendants have violated Labor  
8 Code section 351.

9 49. Plaintiffs are entitled to a return of all tips they were forced to give to  
10 other club employees and a return of all tips and fees for lap dances and table  
11 dances that they were forced to kick back to Defendants, with prejudgment interest  
12 thereon for the past four years.

13 **FOURTH CAUSE OF ACTION**

14 **(California Bus. & Prof. Code §§ 17200, et seq.)**

15 **(Against all Defendants)**

16 50. The allegations set forth above in Paragraphs 47 through 49,  
17 inclusive, are incorporated into this cause of action by reference as if set forth in  
18 full.

19 51. Plaintiffs bring this cause of action on behalf of themselves, pursuant  
20 to Business & Professions Code §17204. The Defendants’ conduct as alleged  
21 herein has been, and continues to be, deleterious to Plaintiffs, and Plaintiffs are  
22 seeking to enforce important rights affecting the public interest within the meaning  
23 of Code of Civil Procedure section 1021.5. Plaintiffs also seek compensation for  
24 the loss of their property and the personal financial impacts they have suffered as a  
25 result of Defendants’ unfair business practices.

26 52. California Business & Professions Code §§ 17200 et seq. prohibits  
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1 “unfair competition,” defined as any “unlawful, unfair, or fraudulent business act  
2 or practice.” These acts or practices consists of those forbidden by law.

3 53. The unlawful, unfair, and fraudulent practices described herein  
4 constitute ongoing and continuous unfair business practices within the meaning of  
5 Business & Professions Code §§ 17200, et seq., as they are prohibited by federal  
6 and state laws.

7 54. Defendants’ practices described herein offend established public  
8 policies, including, but not limited to those set forth in the FLSA and Labor Code  
9 § 356 and involve business practices that are immoral, unethical, oppressive,  
10 unscrupulous and/or substantial injurious to customers.

11 55. The furtherance of Defendants’ role in the stream of commerce by  
12 engaging in the aforementioned business practices creates an unfair business  
13 advantage over competitors that do not utilize such practices from within  
14 California and the United States.

15 56. Plaintiffs seek injunctive relief, disgorgement of all profits resulting  
16 from these unfair business practices, restitution and other appropriate relief on  
17 behalf of themselves and the general public as provided in Business & Professions  
18 Code § 17203.

19 WHEREFORE, Plaintiffs request the following relief:

20 As to the First Cause of Action:

21 1. A declaration that Defendants violated Plaintiffs’ rights under the  
22 FLSA by failing to pay exotic dancers minimum wage at Defendants’ nightclubs.

23 2. An order restraining Defendants from continuing to fail to pay  
24 minimum wage to exotic dancers working at their clubs.

25 3. An award of damages for back pay, including prejudgment  
26 interest, or liquidated or double damages for the past three years of work.



1 As to the Second Cause of Action:

2 1. A declaration that Defendants violated Plaintiffs' rights under the  
3 Labor Code by failing to pay exotic dancers minimum wage at Defendants'  
4 nightclubs.

5 2. An order restraining Defendants from continuing to fail to pay  
6 minimum wage to exotic dancers working at their clubs.

7 3. An award of damages for back pay, including prejudgment  
8 interest, for the past two years of work.

9 As to the Third Cause of Action:

10 1. An award of damages representing all tips Plaintiffs were forced to  
11 give to other club employees and all tips and fees for lap dances and table dances  
12 that Plaintiffs were forced to kick back to Defendants, with prejudgment interest  
13 thereon for the past four years.

14 As to the Fourth Cause of Action:

15 1. A declaration that Defendants violated Plaintiffs' rights under the  
16 FLSA and the Labor Code by failing to pay exotic dancers minimum wage at  
17 Defendants' nightclubs.

18 2. An order restraining Defendants from continuing to fail to pay  
19 minimum wage to exotic dancers working at their clubs.

20 3. An award of restitution, representing all tips Plaintiffs were forced to  
21 give to other club employees, and all tips and fees for lap dances and table dances  
22 that Plaintiffs were forced to kick back to Defendants, with prejudgment interest  
23 thereon for the past four years.

24 4. An order for disgorgement of all profits resulting from the unfair  
25 business practices alleged herein.

26 As to all Causes of Action:

1           1.     An award of costs, including attorney's fees under 29 U.S.C. §  
2     216(b), California Labor Code §§ 218.5, 1194(a) and California Code of Civil  
3     Procedure § 1021.5, and other relevant provisions of law; and

4           2.     Such other and further relief as the Court finds just and proper.

6     DATED: June 18, 2008

PATRICK J. MANSHARDT

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9     By 

Patrick J. Manshardt  
Attorney for Plaintiffs CALIFORNIA COALITION  
OF UNDRESSED PERFORMERS ("C-CUP") AND  
4 EXOTIC DANCERS

12                     **DEMAND FOR JURY TRIAL**

13     Plaintiffs hereby demand a jury trial on all claims so properly triable.

14  
15  
16     By 

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4 EXOTIC DANCERS